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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,929	06/01/2001	Richard Dean Dettinger	ROC920010022US1	1395

26517 7590 12/13/2006

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EXAMINER

MIRZA, ADNAN M

ART UNIT PAPER NUMBER

2145

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/871,929

**Applicant(s)**

DETTINGER ET AL.

**Examiner**

Adnan M. Mirza

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

In view of the Appeal Brief filed on '0/05/2006, PROSECUTION IS HEREBY REOPENED. New rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15,34,49,62 rejected under 35 U.S.C. 101 because "Program product" is not tangible because it is software perse.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al (US 2004/0088384) and Kikuchi (U.S. 2001/0015975).

3. As per claims 1,12,15 Taylor disclosed a method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps performed at a server computer system: identifying factors relevant to provision of said information handling capability by said client computer, selecting one of at least a first and a second service to be uploaded to said client computer based upon said factors (Page. 6, Paragraph. 0077),

However Taylor did not disclose in detail said first and second services comprising different executable code for providing said information handling capability, and delivering said selected service to said client computer system, so that said information handling capability may be realized by said client computer upon execution of code within said selected service at said client computer system.

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In the same field of endeavor Kikuchi disclosed, "A user receives services and content information in his/her data communication terminal 1 from an application server (AP server) through a wire/wireless network, a channel, the service provider and Internet. Herein a packet means a block comprised of user data and a header. Data is transmitted in such blocks in an Internet transfer protocol. The header means control data including, for instance, addresses of a transmitter and a receiver, a service identifier, a check sum, and sizes of user data and a header" (Page. 7, Paragraph. 0037).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated A user receives services and content information in his/her data communication terminal 1 from an application server (AP server) through a wire/wireless network, a channel, the service provider and Internet. Herein a packet means a block comprised of user data and a header. Data is transmitted in such blocks in an Internet transfer protocol. The header means control data including, for instance, addresses of a transmitter and a receiver, a service identifier, a check sum, and sizes of user data and a header as taught by Kikuchi in the method of Taylor to provide cost effective method and system while at the same time reduce latency.

4. As per claims 2,13,16 Taylor-Kikuchi disclosed wherein said services comprise data in addition to executable code (Kikuchi, Page. 7, Paragraph. 0037).

5. As per claims 3,14,17 Taylor-Kikuchi disclosed wherein said factors comprise one or more of: the operating system used by said server computer system, the operating system used by said client computer system, the bandwidth of a communications connection between said client and server computer system, the date and/or time of day, the cost of a communications connection between said client and server computer system, and the location of said client and/or server computer system (Kikuchi, Page. 7, Paragraph. 0037).

6. As per claims 4,23,40,53 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing brokerage information to a user of said client computer system (Kikuchi, Page. 7, Paragraph. 0037).

7. As per claims 5,24,41,54 Taylor-Kikuchi disclosed wherein said brokerage information comprises product information and pricing (Kikuchi, Page. 7, Paragraph. 0037).

8. As per claims 6,25,42,55 Taylor-Kikuchi disclosed wherein said product is real estate property (Taylor, Page. 6, Paragraph 0056).

9. As per claims 7,26,43,56 Taylor-Kikuchi disclosed wherein said product is chattel property (Taylor, Page. 6, Paragraph 0056).

10. As per claims 8,27,44,57 Taylor-Kikuchi disclosed wherein said product is an automobile (Taylor, Page. 6, Paragraph 0056).

11. As per claims 9,28,45,58 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing scheduling information to a user of said client computer system (Taylor, Page. 6, Paragraph. 0077).

12. As per claims 10,29,46,59 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing financial information to a user of said client computer system (Taylor. Page. 6, Paragraph. 0056).

13. As per claims 11,30,47,60 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing transportation service information to a user of said client computer system (Taylor, Page. 6, Paragraph. 0056).

14. As per claims 18,37,50,63 Taylor-Kikuchi disclosed wherein said media comprises a transmission type media (Taylor, Page. 5, Paragraph. 0052).

15. As per claims 19,38,51,64 Taylor-Kikuchi disclosed wherein said media comprises a storage media (Taylor, Page. 5, Paragraph. 0052).

16. As per claims 20,31,34,52 Taylor-Kikuchi disclosed a method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following, steps executed at a

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client computer system storing executable code for providing said information handling capability (Kikuchi, Page. 7, Paragraph. 0037), performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage by said client computer system, and in response to a determination that said executable code ought not be retained by said client computer system, unloading said executable code from storage in said client computer system (Taylor, Page. 7, Paragraph. 0073).

17. As per claims 21,32,35 Taylor-Kikuchi disclosed wherein said analysis comprises determining a period of disuse of said information handling capability by said client computer system (Taylor, Page. 6, Paragraph. 0077).

18. As per claims 22,33,36 Taylor-Kikuchi disclosed wherein said analysis comprises determining the presence of a connection between said client computer system and a server computer system involved in provision of said information handling capability (Taylor, Page. 6, Paragraph. 0077).

19. As per claims 39,48,49,61,62 Taylor-Kikuchi a disclosed method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprises the following steps executed at a client computer system receiving from a server computer system, executable code for providing said information handling capability (Kikuchi, Page. 7, Paragraph. 0037), receiving from a server



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computer system, state information relating to a prior interaction of said client computer system and server computer system, utilizing said state information while executing said executable code at said client to provide said information handling capability (Taylor, Page. 7, Paragraph. 0073).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-69 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

20. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

21. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

AM

Adnan Mirza

Examiner

  
JASON CARDONE  
SUPERVISORY PATENT EXAMINER